

# FISHING RIGHTS WILL EXPIRE BY LAW SOON

IN ALMOST every law office in the city there is in preparation at least one suit for the establishment of fishing rights, and in the matter of several of the largest estates the suits, which have for their purpose the defining of the holdings which are to lead later to suits for the extinguishing of the rights, so that the people may have the privilege of free fishing wherever they may choose to try their fortune, the attorneys are busily engaged in making their cases so perfect that there will be no possible disputing of the claims.

There promises to be an avalanche of the claims filed very soon, for under the provisions of the Act of Congress known as the Organic Act, such rights must be claimed within two years after the taking effect of that law, which was finally the basic law of the Territory on June 14, 1900. According to that provision, then, there will expire on the same day of this year all opportunity for the claimants of fishing privileges under any formerly recognized right, to make their claims known and to receive compensation for the same when the local government takes them over for the use of all the people of the islands.

The sections of the Organic Act which have to do with fishing rights are numbered 95 and 96, and read as follows:

Section 95. That all laws of the Republic of Hawaii which confer exclusive fishing rights upon any person or persons are hereby repealed, and all fisheries in the sea waters of the Territory of Hawaii, not included in any fish pond or artificial enclosure, shall be free to all citizens of the United States, subject, however, to vested rights; but no such vested right shall be valid after three years from the taking effect of this act, unless established as hereinafter provided.

Section 96. That any person who claims a private right to any such fishing shall, within two years after the taking effect of this act, file his claim to such fishing right, service of which shall be made upon the Attorney General, who shall conduct the cause for the Territory and such case shall be conducted as an ordinary action at law.

That if such fishing right be established, the Attorney General of the Territory of Hawaii may proceed in such manner as may be provided by law for the condemnation of property for public use, to condemn such private right of fishing to the use of the citizens of the United States, upon making just compensation, which compensation, when lawfully ascertained, shall be paid out of any money in the Treasury of the Territory of Hawaii not otherwise appropriated.

## FEW MONTHS MORE.

This sets the date for the filing of the suits to establish the rights at the middle of June of this year, though there is another year in which they must run before the same may be taken over by the government. There have been introduced several suits up to the present time, and as well several cases which will have a direct bearing upon the question of the legal rights which are in the hands of fishing privileges. One of these was a claim of the Kaneohe Ranch Company against several persons, whom it was alleged had been fishing without rights, but this case was not prosecuted, and in the statements from the Attorney-General at that time there was given, probably, a line upon the stand which will be taken by that office when the hearing of the many causes for the establishment of the rights come up. It is believed by the various attorneys that the Attorney-General meant then to convey the impression that he would oppose any rights except those in support of which there could be brought out the royal patent which conferred the rights upon the claimant. This would seem an absolute disregard of any so-called konohiki rights and would greatly reduce the number of rights which must be extinguished by purchase by the Territory.

It is the opinion of many well known persons that there will be few suits to establish fishing rights except on the islands of Oahu, Maui and Hawaii. The owners of many of the rights on the other islands will, it is believed, simply allow their rights to lapse, as there is not a great demand for the use of the fishing privileges. As all the cases must be filed by June 14th of this year, there must be something of activity very soon in the caring for the interests involved, or they will lapse by limitation.

President Roosevelt has transmitted to Congress the preliminary report upon the Fisheries and Fishing Laws of Hawaii, according to the directions of Congress, with a paragraph calling attention to the request of Commissioner Bowers that \$10,000 be appropriated immediately to carry out the wishes of Congress.

Commissioner Bowers in his letter explains that the report must be regarded as partial and that the investigation will be continued as to the deep water fisheries during this year by Dr. Jordan, using the steamer Albatross. Mr. Bowers says the recommendations as to fisheries legislation have his approval.

The report is written by Dr. David Starr Jordan and Dr. Barton Warren Evermann. They tell of the scope of their work, their assistants and men who aided them here, and then say that about 350 species of fishes were obtained, some seventy of them being new to science, in addition to 100 obtained by Dr. Jenkins in 1889. The detailed account of the fishes with colored plates will be published later. The report lists and identifies all the known food fishes and then proceeds to follow the laws relating to fisheries, and the conditions prior to 1890, when the first laws were passed. This includes an interesting history of the taboo and its scope.

After concluding this phase of the report with a quotation of the laws governing the extinguishing of fisheries rights, which are to be wiped out in 1903, the report goes on to say:

## MUST HAVE PROTECTION.

Except in a few isolated instances these exclusive fishery rights are not

much importance on any of the islands except Oahu. On this island, particularly in the vicinity of Oahu, they are of considerable value, owing to the easily accessible market afforded by the city. On the other islands the population is too scattered to make the fisheries valuable. The owners of fishery rights usually lease them to Japanese, Chinese and Hawaiians.

The abolishment of these fishery rights will, in some instances, work very serious damage to the commercial fisheries if proper laws are not provided to take the place of the old restrictions. Under the laws governing these fisheries at present, the owner can, and in some places does, protect certain species, particularly the mullet, during the spawning season by placing a taboo on them, and as everybody had to account to him when fishing he could easily prevent the use of destructive forms of apparatus or fishing.

The fisheries of Honolulu are rapidly falling off in amount, with a corresponding rise in the price of fish, which are now perhaps higher than in any other seaport town in the world. One cause of the falling off is to be found in over fishing within a limited area. The markets of Honolulu are supplied by resident fishermen, by fishermen along the line of the Oahu Railway at Waiwae and Waiwae, and by fishermen on the north side of the Pearl, about the village of Hea. None of these fishermen go into deep water, or to any great distance from Honolulu. Their equipment is on a relatively small scale, and thus far large equipments have not been found profitable. The high price of labor, its relative untrustworthy character, and the ease of overstocking the market have brought attempts at fishing on a large scale to a comparative failure. Native fishermen work when they feel like it. The Chinese fishermen are afraid of new situations and are beset by superstitious fears. Japanese fishermen enter into combinations with their competing fellows, thus defeating the purpose of large fishing plants to control the markets themselves.

The most valuable element in the Hawaiian fisheries is the amama or mullet. The system of fencing off arms of the sea for the formation of mullet ponds is practically, in American territory, confined to Hawaii. The recognition of private ownership in such ponds is contrary to American precedents. If it be found impracticable to recognize such private ownership, these ponds may be condemned by the United States government and again leased to private persons. The best interests of the fisheries will be served by leaving their present owners in undisturbed possession. The matter should, however, receive careful consideration, as the action of Congress will constitute a permanent precedent. Under Hawaiian law the sea between the land and the barrier reef is also held as personal property. The act establishing the Territory of Hawaii wisely provided for the extinction of such titles.

After the fishery rights are abolished in 1902 there will be almost no restrictions on the general fisheries. At the present time very fine-meshed seines are used, especially around Honolulu and Hilo, and immense numbers of very young fish, such as the mullet, ulua and akule, from two inches in length up, are caught and sold. It is again to be noted that the small young mullet under four inches in length. Unless this great drain on the young is stopped the fisheries are bound to suffer severely.

The use of fine-meshed nets and the sale of small fish should be absolutely prohibited.

The same remark applies to the various species of mullet, known as weke, mamo, muno, kumu, umu, etc. Two of these species, the muno and the umu, stand among the very first quality of Hawaiian food fishes, ranking with the famous red snapper of Europe.

The large shad-like fishes known as ulua are worthy of similar protection. Hundreds of young too small to be of any food value are taken every day in the seines in Pearl Harbor and in the Bay of Hilo.

For the adequate protection of the fishes of the Hawaiian Islands the following regulations are suggested.

## REGULATIONS SUGGESTED.

1. The size of the meshes of seines should be limited. No seine with a mesh less than three inches in extension should be used. An exception may be made which will allow the use of seines not exceeding 30 feet in length and with mesh not under three-eighths of an inch in extension for the purpose of taking bait.
2. The capture or taking in any manner whatsoever or the selling, offering for sale, or having in possession any amama, weke, mamo, kumu, or muno, or other fish of the family mulletidae of less than eight inches in length should be prohibited.
3. The minimum size limit for the ulua and related species of the family carangidae should be 12 inches.
4. The minimum size limit for all species other than those specifically mentioned above should be five inches.
5. The amama or mullet, is of great importance on the islands of Oahu and Molokai, and in order to properly conserve the supply the catching of them during their spawning season should be prohibited. Their principal spawning season is from the latter part of October to the early part of February.
6. The setting of female ulua locally known as labotari when carrying eggs should be strictly prohibited. While there is no present sign of a decrease in the supply of this crustacean, it is better to start now than when it is too late.
7. As the waters of Pearl Harbor seem to be favorably adapted to the raising of oysters, it would be well if such industry could be established and fostered by the passage of a law permitting the leasing of small plots of land under water, adjacent to the shores, for the purpose of planting and raising oysters. There are at present a few beds of small native oysters scattered through Pearl Harbor, but very little dependence can be placed upon these to supply the demand. Several efforts have been made to introduce oysters from the eastern portion of the United States and from California, and the results were sufficient to show that with proper care and encouragement, such as recommended above, a profitable industry could be built up.
8. An efficient force of fish wardens should also be provided for in order to see that the laws are properly enforced. Each warden could have a certain district, in which he would reside, and he would thus be enabled to keep a close supervision over the fishermen.
9. It is also recommended that the native birds of the islands should be protected and that a clause to that effect be made a part of any legislation that may be had.

That legislation equivalent to the above

Table showing, by nationality and islands, the persons engaged in the fisheries of the Hawaiian Islands in 1900.

	Haw'i'i	Kauai	Lanai	Maui	Mol'kai	Niihau	Oahu	Total
Fishermen:								
Americans	2	3	1	1	1	1	1	6
Chinese	8	34	3	20	173	238	1,571	2,017
Hawaiians	405	120	46	231	103	12	654	1,571
Japanese	134	50	37	5	250	485	2	1,003
Portuguese								2
South Sea Islanders								43
Total	549	207	46	297	128	12	2,345	3,486
Shoremen:								
Americans				1				1
Chinese	22			6				28
Germanians								1
Hawaiians				13				14
Japanese	18			12				30
Total	54			32				86
Grand Total	603	207	46	329	128	12	2,345	3,572

recommendations is demanded by the interests of Hawaii admit of no question. It, however, raises the more important question: Should such a statute be passed by Congress and enforced by the Federal judges, marshals, and other officials; or should it be left to the action of the Territorial legislature?

The present commission desires to express no opinion on this large question of national policy. It is proper, however, to state this fact. With the present Territorial legislature it is apparently wholly impossible to pass any kind of statute for the protection of the fisheries. With the present laws governing suffrage there is no prospect of any change in this regard.

The chief argument used against protective laws is the desire of the Hawaiian people to eat little fishes raw. Of these little fishes there are, one or two, called "nehu," never grown to a size which is an important food of larger fishes; that the market value of all which are taken is insignificant, and that the young of the mullet and other fishes of real value are taken and eaten with the nehu.

## INTRODUCTION OF ADDITIONAL SPECIES.

The fresh waters of the Hawaiian Islands are too limited in importance to justify experiments in acclimatization. The chief streams are on the island of Kauai. The only native fishes in any of the streams are different species of gobies, known collectively as "opou." These have some value as food, but are not highly esteemed.

Although the waters adjacent to the islands teem with numerous and other denizens of the sea, numerous efforts have been made to introduce additional species. Among the principal species so far introduced are the following:

From China and Japan—Goldfish, chin-fish, a species of catfish, and one or more species of frogs.

From the United States—Brook trout, black bass, catfish, carp, the bullfrog, and the terrapin. In 1850 some salmon and trout eggs were sent to parties in Honolulu in exchange for 100 awa. There is no record of what became of these eggs.

The codfish and frogs have thrived very well and are now to be found on most of the islands. At Hilo the frogs are so abundant that they have become an article of sale. On the island of Kauai they have been found especially useful in destroying the fluke, an insect which works considerable damage to the cattle. They have also assisted very materially in thinning out some of the noxious insects which have been introduced. The chin-fish is to be found in numbers in the vicinity of Honolulu alone, and is raised in the irrigation ditches and fresh-water ponds. The chin-fish and goldfish are generally sold alive to the Chinese.

The rivers of the islands are, in nearly every instance, small mountain streams, which become torrents in the wet season and a series of pools, connected by slender rivulets, during the dry season. Trout do not thrive under such conditions, and it is a waste of time to attempt to acclimatize them. Only one plant for Kauai in 1890 has so far been made, and nothing has been seen or heard of them since.

The small mountain black bass, however, would probably thrive under such conditions. One plant of this species has been made (at Hilo), and although they were never seen again it is probable that this was owing to their poor physical condition when planted.

Owing to the absence of the consignee when they arrived, they were allowed to remain in the tanks for some time before being planted, and as a freshet occurred the next day it is probable they were all carried out to sea. As the rivers are filled with fresh-water shrimp, the bass would have an abundant food supply.

The catfish (American and Chinese) are found in considerable numbers on Oahu, and in the vicinity of Hilo. Carp are found on the islands of Maui and Kauai, but are not yet common.

## VALUABLE FISH RECOMMENDED.

A more valuable fish than the black bass is probably available for these islands. It is the Japanese dwarf salmon or ayu, *Plecoglossus altivelis*. It is one of the most delicate of fishes, breeds freely, and lives in every clear stream of Japan from Hokkaido to Formosa, being thus well adapted to the climate of Hawaii. Perhaps more than any other foreign fish whatever it merits introduction into the waters of the United States, especially into those of California.

Several lots of oysters from the eastern part of the United States and from California have been brought to the islands at different times since 1892 and planted in Pearl Harbor. While the results achieved were not very satisfactory from a financial standpoint, still they were sufficient to show that the business might be put upon a remunerative basis if we would turn the time and attention necessary. The eastern oyster was found to breed to a limited extent.

Clams could be planted in Pearl Harbor and in other favorable localities, and would probably thrive well.

The abalone, which is very highly prized by the Chinese, might be introduced from the coast of California. The depletion of the fisheries of these islands can be best prevented by proper protective legislation such as we have suggested. Fish-cultural methods have not yet been developed with regard to any of the fishes native to or suitable for these islands. The establishment of a fish-cultural station there is at present wholly impracticable and unnecessary.

The establishment, however, of a biological station similar to that at Woods Hole or that at Beaufort, N. C., for the study of the many important problems connected with tropical insular aquatic life is of the highest importance and is earnestly recommended.

## FISH PONDS.

The most interesting of the fishery resources of the islands are the fish ponds. Many of these were built so long ago that even tradition does not approximate the date. As they were originally owned by the kings and chiefs, it is very probable that they were built by the forced

labor of the common people. They are found principally in the bays indenting the shores of the islands, the common method of construction being to build a wall of lava rock across the narrowest part of the entrance to a small bay or for the pond. They were also built on the seashore itself, the wall in that case being run out from two points on the shore some distance apart in the shape of a half circle. A few were built somewhat interior, and these are filled by the fresh-water streams from the mountains or by tidal waves from the sea carried in by means of ditches. In the sea ponds the walls are built somewhat loosely, which permits the water to percolate freely. The ponds are arranged with narrow entrances, protected by sluice gates, which can be opened or closed at will. These are frequently open when the tide is running in, which allows the amama, or mullet, and the awa to enter freely. When the tide turns the gates are closed, making prisoners those which have entered. The salt-water ponds usually contain only the amama and awa.

In the fresh and brackish water ponds goldfish, china fish, opou, carp, catfish, and others are kept. An abalone, and oku, which are kept, are at fish culture is made with these ponds, the young fish being captured in the open in the case of most of the species enumerated and placed in the ponds until they attain a marketable size. Large quantities of amama and awa are handled in these ponds annually, especially on the island of Oahu. Dip nets, seines, gill nets, and scoop nets are used in taking the fish from the ponds; and as they are quite shallow, this is done very easily. The ponds are operated almost exclusively by Chinese.

A number of the ponds have been allowed to fall into decay, particularly on Molokai and Hawaii, while on Oahu others have been filled up to meet the growing demand for rice land and for other purposes. The maintenance of these ponds should be encouraged as much as possible, as they are of great assistance in maintaining a regular supply of fish at all seasons of the year.

The irrigation ditches used in watering the numerous rice fields are also employed incidentally in raising a few of the species enumerated above.

## FISH MARKET AND METHODS.

There are seven fish market houses, one each at Honolulu, Hilo and Wailuku, and four at Lahaina. In addition to these are several small retail fish through the sections of inhabited country which are not convenient to the markets or to the fisheries. There is great room for development in this part of the business, however, as the inhabitants of some of the more inaccessible villages rarely ever have an opportunity from one year's end to another to purchase fish.

At Honolulu the market house, with land, is valued at \$155,000. It is owned by the Territorial government, and is one of the best appointed fish markets in the United States. A fish inspector, with one assistant, is in charge of the market, and all fish must be inspected by him before they go upon the stalls. In this manner complete control over the fish sold in the city is obtained, as no peddling through the streets is permitted.

There are 20 stalls for the sale of fresh fishery products, the rents of which vary from \$15 to \$30 per month, according to location. Only 15 of these were occupied in 1900. Of these, 11 were run by Chinese, three by Japanese, and one by natives, the total number of persons employed being Chinese 40, Japanese six, and natives two. In addition to these, six tables were occupied by six natives, who on Saturday for the sale of limu (algae), while three tables were devoted to the sale of dried fish during most of the week, and were run by three native women. On a few days in the week, when fresh fish are scarce, certain of the dealers sell dried California salmon. The fishermen bring their catch to the market at whatever hour is convenient to them, and the dealers sell for them on a basis of 10 per cent commission. Fish brought in previous to noon must be sold before the market closes the same day, but if brought in after noon it can, if not sold before night, be kept in a cold-storage house close by, and placed on the stalls again the next morning, but in that event it must be designated by a small placard bearing the words, "iced fish." The inspector is empowered by law to remove any fish found being placed upon the stalls, and can condemn any tainted fish either then or afterwards. It is the usual custom to make frequent inspections of the fish after they go upon the stalls, as they soon become tainted in that climate. No fish is used in the market house. The larger fish are dressed, while the smaller ones are sold round. There is no loss in dressing, however, as the head, entrails, etc., are sold. All except goldfish are sold dead. This market is exceedingly well managed, and there appears very little, if any, chance for improvement.

The market house at Hilo, which is owned by private parties, was built at an expense of \$13,000, including the value of the land, and was opened for business on April 1, 1899. During 1900 the number of stalls occupied was 27, the rents of which were carried from \$15 to \$15 per month. These were not occupied continuously, as frequently a dealer would give up the business after a week or a month's trial and someone else would start it up. There are 32 stalls in all. The number of persons employed around the market were Chinese, 18 Japanese, and 14 natives. During the summer of 1901 a syndicate of Chinese and Japanese bought up the stalls and began to take advantage of their position by shutting out the other dealers and compelling the fishermen to sell to them at a low price, while there was no limit to what they could charge the townspeople, as fish could not be sold on the streets. As a result a number of the fishermen carried their catch by carts to Oahu, about 11 miles away, and established a temporary market there. The Territorial government leased the market in August, 1901, which broke up the combination.

An inspector was also appointed, who will have complete charge of everything about the market. Previously there was

no inspection and large quantities of tainted fish were sold upon the people. As at Honolulu, every effort is made to dispose of the catch the same day that it comes in, as no ice is used. Owing to the heavy surf close to the market house, the fishing boats cannot land there and are compelled to go to Waiwae, a suburb of Hilo about a mile away. The fishing boats usually land here during the morning and are immediately boarded by the dealers, who begin to dicker for the catch. When a boat with a large catch comes in, a stranger would think that Bedlam had broken loose, as Japanese, Chinese, Portuguese, Hawaiian, English and variations of these languages are hurled back and forth, each man trying to outstrip every other in the amount of noise made. Everything is on a cash basis, the successful dealer counting down the money at once and removing the fish, which are carried to the market by carriers, with baskets slung over their shoulders on poles, and carts. The principal selling time at the market is in the afternoon, after the dealers have returned from Waiwae.

The market house at Wailuku is a small affair with only five stalls, which are run by two Chinese and five natives, and is owned by a private individual. The market house, with land, is valued at about \$150. Most of the fish sold here are brought from Kahului, a few miles away, while some amama come from the island of Molokai. It has no government supervision, which it needs.

The principal market house at Lahaina is owned by the government, and is valued at about \$5,000, including the land.

(Continued on page 8.)

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